

RESOLUTION NO. 83-113

RESOLUTION APPROVING AN AGREEMENT WITH FRANK
AND HELEN ALEGRE REGARDING THE PAYMENT OF
DELINQUENT REAL PROPERTY TAXES AND SPECIAL
ASSESSMENTS ON VARIOUS PARCELS IN THE
CLUFF/TURNER ASSESSMENT DISTRICT NO. 1

RESOLVED that the City Council of the City of Lodi does
hereby approve an Agreement with Frank and Helen Alegre
regarding the payment of delinquent real property taxes and
special assessments on various parcels in the Cluff/Turner
Assessment District No. 1 a copy of which is attached hereto
and marked Exhibit A thereby made a part hereof.

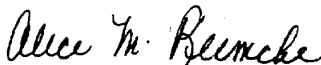
Dated: October 6, 1983

I hereby certify that Resolution No. 83-113
was passed and adopted by the City Council of
the City of Lodi in an adjourned regular meeting
held October 6, 1983 by the following vote:

Ayes: Council Members - Snider, Pinkerton, Reid,
Murphy, and Olson (Mayor)

Noes: Council Members - None

Absent: Council Members - None


Alice M. Reimche
City Clerk

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AGREEMENT

This Agreement is made by and between FRANK C. ALEGRE, SR., and HELEN C. ALEGRE, Trustees of the Frank C. Alegre, Sr. and Helen C. Alegre Revocable Trust (the Alegres and the Trust being referred to collectively for convenience hereinafter as "the Trust"), the City of Lodi (hereinafter "City") and the San Joaquin County Tax Collector (hereinafter "Tax Collector"), as follows:

R E C I T A L S

A. The Trust is the owner of record of two parcels of real property located in the City of Lodi, State of California, to wit: Assessor's Parcel Nos. 49-80-44 and 49-80-50 (hereinafter "the parcels").

B. On or about April 15, 1981, the City Council of the City of Lodi ordered construction of improvements in the Turner/Cluff Avenue Assessment District No. 1. In connection therewith, assessments Nos. 8 and 9 were levied against Assessor's Parcel Nos. 49-80-44 and 49-80-50,

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respectively, and such assessments constitute liens against those parcels.

C. Payments are due on account of delinquent real property taxes and special assessments (hereinafter "the delinquencies") through September 30, 1983, in amounts of \$59,896.01 and \$25,264.72 on Parcel Nos. 49-80-44 and 49-80-50, respectively.

D. Additional penalties (hereinafter "penalties") will continue to accrue on the delinquencies until they are fully paid.

E. To redeem the parcels the Trust must pay the sums referred to in Recitals C and D above, together with attorneys' fees and costs of \$2,400.00 and \$364.80, respectively, on Parcel No. 49-80-44 and \$1,500.00 and \$229.00, respectively, on Parcel No. 49-80-50 (said attorneys' fees and costs on the parcels being referred to hereinafter as "the fees and costs").

F. The City has filed an action to foreclose the lien of the assessments against the parcels, which action is

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pending as Case No. 171280 in the San Joaquin Superior Court (hereinafter "the action").

G. The parties deem it to be in their mutual interests to provide for an installment payment plan whereby the delinquencies and penalties shall be paid by the Trust in installments and the property thereby redeemed consistent with the terms and conditions set forth hereinbelow.

NOW, THEREFORE, the parties hereto agree as follows:

1. The foregoing recitals are true and correct.

2. The Trust shall pay all delinquencies, penalties, and fees and costs as follows:

a. The Trust shall make monthly installment payments of \$20,000.00 to the County Tax Collector until all of the foregoing amounts are fully paid, as follows: The first payment shall be made within five (5) days after the date this Agreement is signed by the San Joaquin County Tax Collector (hereinafter, "the date of execution"). The remaining payments shall be made monthly on or before the

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anniversary date of the first payment. The last installment payment may be a sum less than \$20,000.00, depending on the precise amount required to pay all delinquencies and penalties. Each such payment shall be made by check payable to the "San Joaquin County Tax Collector," and a copy of each check shall be mailed to Ray W. Sherman, Jr., Professional Corporation; and,

b. Concurrently with the first payment to be made as set forth in Paragraph 2(a) above, and as a condition precedent to the effectiveness of the installment plan referred to herein, the Trust shall pay all fees and costs by check payable to "Ray W. Sherman, Jr., Professional Corporation," in a total amount of \$4,493.80.

3. The payment plan set forth in Paragraph 2 above shall be treated as a Permanent Installment Plan pursuant to Rev. & Tax. C. §§4216, et seq., except that installment payments shall be made monthly rather than annually.

4. Consistent with the requirements of the Permanent Installment Plan, the total amount due for delinquencies and penalties accrued through the date that

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the first payment is made pursuant to Paragraph 2(a) above shall constitute the principal amount due for purposes of this Agreement. The first payment of \$20,000.00 shall be applied to decrease that principal amount. Thereafter, there shall be added to any unpaid principal a penalty sum of 1.5% per month. Each payment after the first payment shall be applied first to payment of any such accrued penalty and the remainder of each such payment shall be applied to reduce the principal amount owing. After all such principal and penalties have been paid, the property shall be redeemed.

5. The amount of each of the installments of currently due taxes and assessments which shall become delinquent if not paid by December 10, 1983, and April 10, 1984, on Parcel No. 49-80-44 is the sum of \$21,121.15 and on Parcel No. 49-80-50 the sum of \$8,504.11. Each and every one of those installments shall be paid in full by the Trust on or before the foregoing dates.

6. The parties agree that time is of the essence with respect to each and every payment referred to herein, and the failure of the Trust to pay any amount by the due date set forth herein shall constitute a default under this

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Agreement. Any default may result in the termination of the Trust's right of redemption as if no election to pay delinquent taxes in installments ever had been made, as provided by Rev. & Tax C. §4222. In the event of any such default, this installment plan will be terminated.

7. The Trust will not be required to answer the above-referenced Complaint provided each and every payment referred to herein is timely made in full. No additional fees and costs, or either of them, will be incurred in connection with the action or this settlement provided each payment is timely made in full.

8. In the event of any default by the Trust in the performance of this Agreement, and in addition to any other consequences of default set forth in this Agreement, an Answer shall be filed by the Trust within five (5) days of the date of default, without additional notice. If no such Answer is filed, the City shall have the right to enter the Trust's default and to exercise any and all other rights, remedies and relief ordinarily available under those circumstances.

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9. The action shall be dismissed and the Lis Pendens recorded against the parcels shall be released if and only if the Trust timely pays in full all sums of money referred to herein.

10. This Agreement shall be of no force or effect unless and until it is approved by the San Joaquin County Board of Supervisors, the San Joaquin County Tax Collector, and the City Council of the City of Lodi.

11. Each of the parties hereto shall do all acts and execute all documents reasonably required to give full force and effect to the terms of this Agreement.

Dated: _____
FRANK C. ALEGRE, SR.,
as Trustee of the
Frank C. Alegre, Sr. and
Helen C. Alegre Revocable
Trust

Dated: _____
HELEN C. ALEGRE,
as Trustee of the
Frank C. Alegre, Sr. and
Helen C. Alegre Revocable
Trust

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CITY OF LODI

Dated: _____ By _____

SAN JOAQUIN COUNTY
TAX COLLECTOR

Dated: _____
JOHN PROWSE

APPROVED AS TO FORM AND CONTENT:

FOR THE CITY OF LODI: RAY W. SHERMAN, JR.
PROFESSIONAL CORPORATION

Dated: _____
RAY W. SHERMAN, JR.

FOR THE TRUST: FREEMAN, RISHWAN & HALL

Dated: _____
JAMES E. GANZER

FOR THE SAN JOAQUIN COUNTY
TAX COLLECTOR: SAN JOAQUIN COUNTY COUNSEL

Dated: _____
GERALD SHERWIN

RAY W. SHERMAN & P.
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

111 BROADWAY, PENTHOUSE
AT JACK LONDON SQUARE
OAKLAND, CALIFORNIA 94607
(415) 834-2748

RAY W. SHERMAN, JR.
ANDREW M. ROSSOFF
SUSAN FELLER

OF COUNSEL
CLARK G. MOSCROP, P.C.

September 26, 1983

James E. Ganzer, Esq.
Law Offices of Freeman, Rishwain & Hall
1818 Grand Canal Boulevard
Stockton, California 95207

RE: City of Lodi v. Alegre, et al.

Dear Mr. Ganzer:

The following is in response to your letters of August 23 and 29, 1983, proposing a schedule for payment in full of delinquent assessments, penalties, attorneys' fees, and costs, on Assessor's Parcel Nos. 49-80-44 and 49-80-50. We have prepared the enclosed Agreement for signature by your clients, Frank C. Alegre and Helen C. Alegre, as trustees for the Frank C. Alegre, Sr. and Helen C. Alegre Revocable Trust, owner of Parcels 49-80-44 and 49-80-50 of the Cluff/Turner Assessment District No. 1.

It appears that the County Board of Supervisors may have to approve the Agreement. In addition, the County Tax Collector, who has some discretion as to whether to accept such a plan, has required Lodi City Council approval and has also specified that the plan be treated as a Permanent Installment Plan under Rev. & Tax Code §4216, et seq., except that installment payments will be made monthly rather than annually. Therefore, we have referenced the salient features of the Permanent Installment Plan generally or specifically in the Agreement, but of course you should review the relevant code sections yourself. Although we were all hopeful payments could begin in September, it now appears that preparation and review and approval of the Agreement will delay the first payment until October.

To expedite matters, copies of this letter and the enclosures are being sent to the City and the County Tax Collector for review and approval. If any problems develop, I